

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Nichole Adams-Flores,

Plaintiff,

-against-

City of New York et al,

Defendants.

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KATHARINE H. PARKER, United States Magistrate Judge:

A case management conference was held on February 11, 2022 where the Court made a number of rulings with respect to the parties' discovery disputes enumerated at ECF No. 140. The parties are directed to the transcript.

The last outstanding discovery dispute concerned Plaintiff's belief that Defendants improperly withheld documents as privilege and requested in camera review. The Court directed Plaintiff to identify ten documents from the log for in camera review. Defendants submitted those documents with a privilege log on February 16, 2022.

The Court has now reviewed those documents. In reviewing the documents, the Court is guided by applicable law governing the privileges asserted – the attorney client privilege and work product privilege – the standards which are not repeated but set forth in the following cases: *In re County of Erie*, 473 F.3d 413 (2d Cir. 2007) (discussing attorney client privilege); *Hickman v. Taylor*, 329 U.S. 495 (1947) (discussing work product doctrine); *Brown v. Barnes & Noble, Inc.*, 474 F. Supp. 3d 637 (S.D.N.Y. 2019) (discussing standard for attorney client privilege and work product privilege).

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| USDC SDNY |
| DOCUMENT |
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| DATE FILED: 2/22/2022 |

18-CV-12150 (JMF) (KHP)

OPINION

Although many of the documents selected were properly withheld as privileged, a few were not. The court's rulings are set forth in the attached chart. Defendants shall review their privilege assertions on the remaining documents on their log to identify any other documents that need to be produced based on the court's rulings reflected herein and as discussed during the conference, and produce any such documents by March 14, 2022.

SO ORDERED.

DATED: New York, New York
 February 22, 2022

Katharine H. Parker

KATHARINE H. PARKER
United States Magistrate Judge

| | <u>Privilege Log ID</u> | <u>General Subject Matter</u> | <u>Type</u> | <u>Court's Determination</u> | <u>Withheld?</u> |
|-----|-------------------------|--|-------------|--|---------------------|
| # 1 | Priv-WIF-00001 | Re: Dr. Nichole Adams-Flores appointment from Civil Service List (Health Services Manager) | ACC | This communication does not discuss, reflect, or request any legal advice or reflect work prepared at the direction of counsel. This email appears purely procedural in that it discusses the physical sending of documentation and Adams-Flores signing off on it. | Improperly Withheld |
| # 2 | Priv-WIF-00008 | PSB 6.2.5 | ACC | This document is requesting legal review of a draft letter that is also privileged. | Properly Withheld |
| # 3 | Priv-WIF-00009 | Nichole Flores.pdf | ACC | This document is a draft letter provided to counsel for legal review. | Properly Withheld |
| # 4 | Priv-WIF-00016 | Re: Civil Service Title | ACC | The main correspondence by email is by two people, who are not attorneys. Neither are requesting legal advice and are in fact being told that "Legal is handling this." There is nothing to suggest that anyone is requesting legal advice or repeating legal advice . | Improperly Withheld |
| # 5 | Priv-Redact-00004 | Re: Clarification please-Attorney Client Confidential and Privlege Communications | ACC | The Court Agrees with the redactions as it concerns communications reflecting legal advice between attorneys. | Properly Redacted |
| # 6 | Priv-Redact-00006 | Re: Clarification please-Attorney Client Confidential and Privlege Communications | ACC | While the redaction concerns a communication between two lawyers, there is no discussion about legal advice or strategy, and instead the communications seeks a clarification on a factual matter. | Improperly Redacted |
| # 7 | Priv-Redact-00009 | PSB 6.2.5 | ACC | Requesting legal advice and is properly redacted. | Properly Redacted |

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| # 8 | Priv-Redact-00016 | Request to review case and reinstate as a Health Service Manager | ACC | This communication requests legal advice and attorneys are included on the communications. | Properly Redacted |
| # 9 | Priv-Redact-00017 | Re: PRR 6.1.3 | ACC, AWP | This is a communication regarding legal advice in Plaintiff's case. | Properly Redacted |
| # 10 | Priv-Redact-00029 | FW: Request to Review case and reinstate as a Health Service Manager | ACC | This is properly redacted as discussed at document 00016. | Properly Redacted |
| # 11 | Priv-Redact-0031 | Re: Certification of from Civil Service List (Health Services Manager - list #187) | ACC | This document is properly redacted because it contains communications by an attorney that are discussing another staff member. | Properly Redacted |